

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JUDITH BROOKS,
Plaintiff,

v.

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,
Defendant.

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No. 3:06-CV-469
(Phillips/Shirley)

AMENDED ORDER

This order supersedes the court's earlier order entered February 10, 2010 [Doc. 60] and is entered pursuant to Rule 60(a) of the Federal Rules of Civil Procedure to correct a clerical mistake.

The court has been advised that there are two separate attorney fee motions pending before the court – one under the EAJA and the other under 42 U.S.C. § 406(b). The Commissioner has requested the court to clarify its earlier order as to the two fee motions. The Commissioner's motion for clarification [Doc. 61] is **GRANTED**.

Attorney Fees under the EAJA

On November 7, 2008, Magistrate Judge Shirley filed an amended report and recommendation [Doc. 37] recommending that plaintiff's application for EAJA fees be granted in the amount of \$5,196.00 in attorney fees and \$350.00 in costs. Neither party filed objections to the amended report and recommendation.

After a careful review of this matter, the court is in complete agreement with the magistrate judge's recommendation that plaintiff's motion for attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, be granted to the extent that plaintiff be awarded \$5,196.00 in attorney fees and \$350.00 in costs. Accordingly, the court **ACCEPTS IN WHOLE** the report and recommendation under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). It is **ORDERED**, for the reasons stated in the report and recommendation, which the court adopts and incorporates into its ruling, that plaintiff's motion for attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, [Doc. 26] is **GRANTED as modified**, whereby plaintiff's counsel is awarded fees under the EAJA in the amount of \$5,196.00 in attorney fees and \$350.00 in costs.

Attorney Fees under 42 U.S.C. § 406(b)

Plaintiff's counsel also filed a motion for attorney fees pursuant to 42 U.S.C. § 406(b). Magistrate Judge Shirley filed a Report and Recommendation [Doc. 59] recommending that plaintiff's counsel be awarded a fee of \$11,240.00. There have been no timely objections to the report and recommendation.

After a careful review of this matter, the court is in complete agreement with the magistrate judge's recommendation that plaintiff's motion for attorney fees under 42 U.S.C. § 406(b) be granted to the extent that plaintiff's counsel is awarded a fee of \$11,240.00. Accordingly, the court **ACCEPTS IN WHOLE** the report and recommendation under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). It is **ORDERED**, for the reasons stated in the report and recommendation, which the court adopts and incorporates into its ruling, that plaintiff's motion for attorney fees under 42 U.S.C. § 406(b) [Doc. 46] is **GRANTED as modified**, whereby plaintiff is awarded attorney fees in the amount of \$11,240.00 under 42 U.S.C. § 406(b).

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge